

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CRIMINAL PETITION NO.10706 OF 2017**

**ORDER:**

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.741 of 2017 on the file of IX Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad, registered for the offence punishable under Section 324 of Indian Penal Code (for short "I.P.C.").

The petitioner is sole accused in the above case. The respondent No.2 – J.Sunitha lodged report with the police on 19.03.2017 at 17.00 hours alleging that on 19.03.2017 at 07.00 a.m. the petitioner without any reason caused injury on the head with "wiper rod" and abused her in filthy language, thereby subjected her to mental harassment and requested the police to take necessary action. On the strength of the said report, a case in Crime No.201 of 2017 of Kukatpally Police Station was registered for the offence punishable under Section 324 of I.P.C., issued F.I.R. and taken up the investigation. During investigation, police examined as many as '5' witnesses and after collection of medical evidence from Dr.M.K.Murthy Mankina, filed charge sheet before the concerned Magistrate; and the cognizance of the offence was taken up by the Magistrate and issued summons.

The present petition is filed on the ground that the report lodged with the police is a counterblast to the report lodged by the petitioner against the husband of respondent No.2 in Crime No.200 of 2017 of Kukatpally Police Station for the offence

punishable under Sections 354 and 509 of I.P.C., thereby respondent No.2 intended to harass the petitioner though she is a lady being a neighbour for no reason and to wreck vengeance.

Sri P.Sree Ramulu Naidu, learned counsel for the petitioner, contended that while reiterating the contentions averred in the petitioner, draw the attention of this Court to the F.I.R. in Crime No.200 of 2017 of Kukatpally Police Station and the contents of charge sheet in C.C.No.471 of 2017 registered for the offence punishable under Sections 354, 509 and 324 of I.P.C. against the husband of respondent No.2. He also contended that Doctor, who examined the respondent No.2 issued wound certificate, found two injuries viz. laceration over head 2 X 1 cm and contusion over forehead 5 X 2 cm and opined that the injuries are simple in nature and could have been caused with iron rod. Therefore, taking advantage of opinion of doctor, he contended that the injuries allegedly caused on the body of respondent No.2 would not fall within the ambit of Section 324 of I.P.C., thereby sought quashment of the proceedings.

Undoubtedly, the petitioner lodged report with the police against the husband of respondent No.2 for the offences punishable under Sections 354 and 509 of I.P.C., which is registered as a case in Crime No.200 of 2017 alleged that the incident occurred at 08.00 a.m. on 19.03.2017 and the report was lodged at 14.00 hours i.e. 02.00 p.m. on the same day vide General Diary Reference Entry No.4, whereas the respondent No.2 lodged report with the police at 17.00 hours i.e. 05.00 p.m. on 19.03.2017 complaining that the incident occurred at 07.00 a.m. on the same

day. The gap between two incidents is one hour, but there is a gap of three hours in lodging the report by the respondent No.2 to the police. Therefore, taking advantage of delay in lodging report with the police, learned counsel for the petitioner contended that the present report is a counterblast to the report lodged by the petitioner against the husband of the respondent No.2.

Investigating agency examined as many as '5' witnesses. Learned counsel for the petitioner placed on record the statements of complaint, her husband and friend of defacto complainant. The consistent statements of respondent No.2 and her husband are sufficient to conclude that the petitioner caused injuries on the head of respondent No.2 with wiper rod. The delay in lodging report is not fatal if it is explained properly during trial. At the same time, nature of injuries, if accepted, based on the wound certificate issued by the Doctor, *prima facie*, the respondent No.2 sustained two injuries i.e. laceration over head and contusion over fore head, the Doctor opined that the said injured could have been caused with iron rod, whether the wiper rod used by the petitioner is a dangerous weapon or not is to be decided only after trial and it depends on the weight, seize and length of the weapon. Even if, no weapon is used, causing pain is sufficient to constitute offence under Section 323 of I.P.C. in view of definition of 'hurt' under Section 319 of I.P.C.

Therefore, taking into consideration of facts and circumstances, there is a possibility of lodging report by one against other and on the ground that it is a counterblast, this Court cannot quash the proceedings. The allegations made in the

charge sheet coupled with the statements recorded by the police, suffice to conclude that the petitioner committed such offence *prima facie*. Hence, I find no ground to quash the proceedings at this stage. Consequently, the petition is liable to be dismissed.

In the result, the petition is dismissed. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

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**JUSTICE M. SATYANARAYANA MURTHY**

03.01.2018  
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